

NICOLL DAVIS & SPINELLA LLP
250 Park Avenue, Suite 1500
New York, New York 10177
(212) 972-0786
Attorneys for Defendant/Third-Party Plaintiff

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARVIN FRANK, Individually and
On Behalf of a Class

Plaintiff,

v.

A & B RESTAURANT GROUP LLC,

Defendant

CIVIL ACTION NO. 07-CV-11419 (JSR)

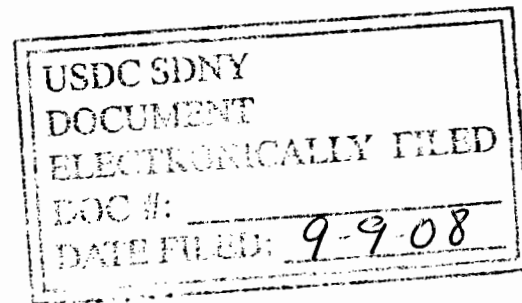
HONORABLE JED S. RAKOFF

STIPULATION OF DISCONTINUANCE
WITH PREJUDICE

A & B RESTAURANT GROUP LLC,
Third-Party Plaintiff,

v.

RETAIL AUTOMATION PRODUCTS, INC.,
Third-Party Defendant.



WHEREAS, plaintiff commenced this action by filing a complaint on or about December 19, 2007; and Defendant/Third-Party Defendant, A&B Restaurant Group LLC (hereinafter "A&B") filed its Answer on or about March 3, 2008 and a Third-Party Complaint on or about April 30, 2008; and

WHEREAS, Third-Party Defendant, Retail Automation Products, Inc. (hereinafter "Retail Automation") filed its Answer to the Third-Party Complaint on or about July 3, 2008; and

WHEREAS, A&B has denied any and all liability arising out of plaintiff's allegations;
and

WHEREAS, Retail Automation has denied any and all liability arising out of A&B's
allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without
further proceedings and without admitting any fault or liability, and have executed a confidential
agreement setting forth the terms of said settlement; now therefore

It is hereby stipulated and agreed that this action is hereby discontinued, with prejudice,
and without costs to either party as against the other.

DONALD R. LOMAX, P.C.

By: 

Donald R. Lomax, Esq.
Attorneys for Plaintiff
386 Park Avenue South
New York, New York 10016
212-682-7704

NICOLL DAVIS & SPINELLA LLP

By: 

Jack T. Spinella, Esq. (JS-5284)
Attorneys for Defendant/Third-Party Plaintiff
250 Park Avenue, Suite 1500
New York, New York 10177
212-972-0786

BAHN, HERZFELD & MULTER, LLP

By: 

Andrew J. Multer, Esq. (AM-2116)
Attorneys for Third-Party Defendant
555 Fifth Avenue, 14th Floor
New York, New York 10017
212-818-9017

Dated: September 8, 2008

SO ORDERED


HONORABLE JED S. RAKOFF
United States District Judge

9-8-08